



3731

Docket No. 1243

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

T-A
6-17-03
#9/Reg
for
Kean
ME

In re Application of: 09/883,818

Examiner: Phanijphand

Group Art Unit: 3731

Serial No: 09/883,818

Filed: June 18, 2001

For: MULTIPLE ACCESS VEIN FILTER

RESPONSE

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This is in response to the Office Action dated April 24, 2003. Applicants request reconsideration of the application and withdrawal of the rejections as the claims are patentable over the prior art applied by the Examiner.

First, the Examiner mistakenly relies on U.S. Patent No. 5,733,294 to Forber to reject independent claims 1 and 9. The Forber patent is not only irrelevant to the filter of claims 1 and 9 but is actually opposite to the filter. Forber is an occlusion device designed to stop blood flow by initiating thrombus formation. (see column 2, line 20). Forber states, "It is an object of the present invention to provide a vascular occlusion device which can occlude a blood vessel using a single device." (col. 1, lines 54-56). Forber explains, "Although the primary use of the device 20 is in embolectherapy to occlude a blood vessel, it may be used generally to close other sites in the cardiovascular system such as a septal defect." (see col. 3, lines 35-39). The present invention in marked contrast is designed to filter blood clots while allowing blood flow through the filter. In fact, blood flow is desirable even at the regions of the captured blood clots to help dissolve the particles (see page 2 of Applicants' specification). This is reflected in claims 1 and 9 which recite a vessel filter having filtering /filter portions. These recitations cannot be ignored by the Examiner as a filter by definition allows flow

therethrough. With proper weight given to the filter recitations, a device like Forber which stops blood flow clearly does not anticipate (nor render obvious) the vessel filter of the present invention. Thus withdrawal of the rejection of claims 1 and 9 and dependent claims 2, 3, 7-8, and 10, 11, 13, 20, 21, and 23-25 is respectfully requested.

With respect to the rejection of independent claim 9 as anticipated by U.S. Patent No. 6,251,122 to Tsurenik, the Examiner relies on reference numerals 76, 78 to designate "anchoring portions." However, as is clear from Tsurenik's disclosure, reference numerals 76, 78 are coupling mechanisms and part of slides 72, 74 (see col. 8, lines 11-12). Thus these are not anchoring portions, i.e. portions that anchor the vessel filter to retain it in the vessel. In fact, elements 76 and 78 do not even contact the vessel and are designed to enable removal, the opposite of anchoring. Consequently, Tsurenik lacks the anchoring portions bending back to extend proximally in a second direction of claim 9. The fact that a non-anchoring removal hook of Tsurenik bends back is insufficient to satisfy the claim language and therefore the claim is not anticipated (or rendered obvious) by Tsurenik. Applicants respectfully request withdrawal of the rejection of claim 9 and its dependent claims 10-13 and 19.

With respect to the rejection of independent claims 1 and 26 as anticipated by U.S. patent No. 5,746,767 to Smith, claim 1 requires an end portion of the first and second anchoring portions converge to a converging region. The Examiner is misled by reliance on Smith's Figure 2. As shown in the perspective view of Figure 1, none of the struts' free ends converge. The specification also describes each strut as having a joining end at the hub and a free end. In the side view of Figure 2, based on the perspective of Figure 1, the free ends are not joined but are behind one another. Similarly, Claim 26 recites that an end region of each anchoring region converges to form a converging region spaced from the filter portion. Consequently, Smith does not anticipate (nor render obvious) claims 1 and 26 or their dependent claims 2, 4, 7, 8, 20, 21, 22, and 27. Thus, the rejection of these claims should be withdrawn.

Claims 3, 5 and 6 were rejected as obvious over Smith. These claims depend from claim 1 and are believed patentable over Smith for at least the same reasons as claim 1.

Applicants respectfully submit that this application is in condition for allowance. Prompt and favorable reconsideration of the present application is respectfully requested. The

Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Respectfully submitted,

Dated: 6/4/03

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